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09/943,353	08/31/2001	Satoshi Arakawa	Q66023	8693
7590 10/07/2003 SUGHRUE, MION, ZINN, MACPEAK & SEAS, PLLC 2100 Pennsylvania Avenue, N.W. Washington, DC 20037-3202			EXAMINER HANNAHER, CONSTANTINE	
			ART UNIT 2878	PAPER NUMBER

DATE MAILED: 10/07/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/943,353

Applicant(s)

ARAKAWA, SATOSHI

Examiner

Constantine Hannaher

Art Unit

2878

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saotome *et al.* (US004943724A) in view of Horikawa (US005099119A) and Takashi *et al.* (US005113078A).

With respect to independent claim 1, Saotome *et al.* suggests a radiation image recording and read-out method corresponding to the illustrated apparatus (Fig. 8) which would comprise the steps of (i) supporting a stimuable phosphor sheet **202** at a position for image recording at which one surface of the stimuable phosphor sheet **202** is exposed to radiation, (ii) exposing the one surface of the stimuable phosphor sheet **202** to radiation from element **11**, (iii) performing an image read-out operation by irradiating stimulating rays **221A** to the sheet **202** and photoelectrically detecting (with element **227**) the emitted light, and (iv) releasing energy remaining on the sheet **20** by irradiating erasing light with an erasing light source **230** in the recited location. Saotome *et al.* does not disclose the locating of a filter on the side of the erasing light source **230** which faces the stimuable phosphor sheet **202**. The locating of a filter which has good absorbing properties with respect to the radiation is shown to be useful by Horikawa, which teaches (Fig. 1) lead plate **2** between the stimuable phosphor sheet **1** and the erasing light source **30**. In view of the advantageous shielding afforded by the presence of lead plate **2** as taught by Horikawa (column 7, lines 45-51), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify

the method of Saotome *et al.* to comprise locating a filter which has good absorbing properties with respect to the radiation on the side of the erasing light source **230** which faces the stimuable phosphor sheet **202**. Plainly a lead sheet, notwithstanding its utility in protecting the stimuable phosphor sheet **202** in the method of Saotome *et al.* around wind-up shafts **241** and **242** from stray radiation (in view of the cone of radiation created by element **11**), would not transmit the erasing light from source **230** to sheet **202**. Takashi *et al.* teaches that a lead plate may serve as a radiation shield while also being transparent. Accordingly, one of ordinary skill in the art would have had a reasonable expectation of success that a lead plate as suggested by Horikawa could shield the apparatus from radiation while, in view of the suggestion of Takashi *et al.*, still having transmitting properties with respect to the erasing light.

With respect to dependent claim 2, Horikawa teaches that a filter which transmits only light constituted of light components having wavelengths longer than wavelengths of an ultraviolet region is known (column 7, lines 43-45). Since such a filter prevents the storage of ultraviolet energy in the stimuable phosphor sheet, which improves the image recording and read-out, it would have been obvious to one of ordinary skill in the art at the time the invention was made to ensure that a filter located between the erasing light source **230** and the stimuable phosphor sheet **202** in the method of Saotome *et al.* in accordance with the suggestions of Horikawa and Takashi *et al.* had the recited property.

With respect to dependent claims 3/1 and 3/2, Takashi *et al.* shows that a filter having the recited properties may be made of either recited material (column 2, line 63).

With respect to dependent claims 4/1 and 4/2, the stimuable phosphor sheet **202** in the method of Saotome *et al.* in the embodiment of Fig. 8 is not kept stationary at the position for image recording, nor is the image read-out means **220** located between the stimuable phosphor sheet and

the erasing light source **230**. Nevertheless, the configuration of the apparatus where the stimuable phosphor sheet is kept stationary at the position for image recording is known from Fig. **7A** and in view of the reduced overhang past the edge of the stimuable phosphor sheet **102** (column 12, lines 62-68) it would have been obvious to one of ordinary skill in the art depending on the intended application and the desired performance to use such a configuration instead. Although the illustrated embodiment of Fig. **7A** shows erasing light source **130**, one of ordinary skill in the art would have appreciated that the area-wise illumination afforded by erasing light sources **231** had advantages in the amount of erasing light which may be delivered, for example, and it would have been obvious to place such sources below the image read-out means suggested by the embodiment of Fig. **7A**.

With respect to dependent claim 5, the image read-out means **120** suggested by the embodiment of Fig. **7A** of Saotome *et al.* is of the recited type in view of (a) read out unit **109** and (b) unit moving means **170**.

With respect to independent claim 7, Saotome *et al.* discloses a radiation image recording and read-out apparatus (Fig. 8) comprising (i) an image recording section **210** of the recited type (stimuable phosphor sheet **202** exposed to radiation from element **11**), (ii) image read-out means **220** of the recited type (stimulating rays **221A**, photoelectric detector **227**), and (iii) an erasing light source **230** of the recited type in the recited location. Saotome *et al.* does not disclose a filter on the side of the erasing light source **230** which faces the stimuable phosphor sheet **202**. The presence of a filter which has good absorbing properties with respect to the radiation is shown to be useful by Horikawa, which teaches (Fig. 1) lead plate **2** between the stimuable phosphor sheet **1** and the erasing light source **30**. In view of the advantageous shielding afforded by the presence of lead plate **2** as taught by Horikawa (column 7, lines 45-51), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Saotome *et al.* to comprise a

filter which has good absorbing properties with respect to the radiation on the side of the erasing light source **230** which faces the stimuable phosphor sheet **202**. Plainly a lead sheet, notwithstanding its utility in protecting the stimuable phosphor sheet **202** in the apparatus of Saotome *et al.* around wind-up shafts **241** and **242** from stray radiation (in view of the cone of radiation created by element **11**), would not transmit the erasing light from source **230** to sheet **202**. Takashi *et al.* teaches that a lead plate may serve as a radiation shield while also being transparent. Accordingly, one of ordinary skill in the art would have had a reasonable expectation of success that a lead plate as suggested by Horikawa could shield the apparatus from radiation while, in view of the suggestion of Takashi *et al.*, still having transmitting properties with respect to the erasing light.

With respect to dependent claim 8, Horikawa teaches that a filter which transmits only light constituted of light components having wavelengths longer than wavelengths of an ultraviolet region is known (column 7, lines 43-45). Since such a filter prevents the storage of ultraviolet energy in the stimuable phosphor sheet, which improves the image recording and read-out, it would have been obvious to one of ordinary skill in the art at the time the invention was made to ensure that a filter placed between the erasing light source **230** and the stimuable phosphor sheet **202** in the apparatus of Saotome *et al.* in accordance with the suggestions of Horikawa and Takashi *et al.* had the recited property.

With respect to dependent claims 9/7 and 9/8, Takashi *et al.* shows that a filter having the recited properties may be made of either recited material (column 2, line 63).

With respect to dependent claims 10/7 and 10/8, the stimuable phosphor sheet **202** in the apparatus of Saotome *et al.* in the embodiment of Fig. 8 is not kept stationary at the position for image recording, nor is the image read-out means **220** located between the stimuable phosphor sheet and the erasing light source **230**. Nevertheless, the configuration of the apparatus where the

stimulable phosphor sheet is kept stationary at the position for image recording is known from Fig. **7A** and in view of the reduced overhang past the edge of the stimulable phosphor sheet **102** (column 12, lines 62-68) it would have been obvious to one of ordinary skill in the art depending on the intended application and the desired performance to use such a configuration instead. Although the illustrated embodiment of Fig. **7A** shows erasing light source **130**, one of ordinary skill in the art would have appreciated that the area-wise illumination afforded by erasing light sources **231** had advantages in the amount of erasing light which may be delivered, for example, and it would have been obvious to place such sources below the image read-out means suggested by the embodiment of Fig. **7A**.

With respect to dependent claim 11, the image read-out means **120** suggested by the embodiment of Fig. **7A** of Saotome *et al.* is of the recited type in view of (a) read out unit **109** and (b) unit moving means **170**.

3. Claims 6 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Saotome *et al.* (US004943724A), Horikawa (US005099119A), and Takashi *et al.* (US005113078A) as applied to claims 5 and 11 above, and further in view of Ohyama *et al.* (US004767927A).

With respect to dependent claims 6 and 12, the image read-out means **220** in the apparatus of Saotome *et al.* (even as a unit **120**) comprises a line sensor **227** (**127**) but the stimulating ray source **221** (**121**) irradiates an area of the stimulable phosphor sheet in a main scanning direction which is linear without being "linear" itself. Ohyama *et al.* shows that a linear stimulating ray source **30** is known (Ohyama *et al.* also shows a line sensor **28**). In view of the reduction in the number of moving parts, for example, through the use of a "linear" stimulating ray source as suggested by Ohyama *et al.*, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the method suggested by Saotome *et al.*, Horikawa, and Takashi *et al.* to

comprise an image read-out unit with a linear stimulating ray source in place of the scanned point source.

### **Response to Arguments**

4. Applicant's arguments filed September 10, 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

The Examiner has identified aspects of the method and apparatus Saotome *et al.* which would benefit from the location of a filter which has good absorbing properties and this does not include knowledge gleaned only from the applicant's disclosure. The Examiner has identified art which shows that a plate of similar composition to that suggested by Horikawa may transmit the erasing light in the method and apparatus of Saotome *et al.* and this does not include knowledge gleaned only from the applicant's disclosure.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the Examiner



finds the motivation in protecting portions of the stimuable phosphor sheet 202 in the method and apparatus of Saotome *et al.* from stray radiation. Only under the assumption that the lead plate 2 of Horikawa is not transparent to light of the type emitted by an erasing light source, and only when Horikawa is contemplated in isolation, is the function of Saotome *et al.* impaired. But one of ordinary skill in the art must be presumed to have the ability to select and utilize knowledge from other arts reasonably pertinent to the solution of the particular problem. The knowledge of Takashi *et al.* that a lead-containing sheet may shield from radiation yet also transmit light is knowledge which is reasonably pertinent to the solution of the particular problem in shielding the sheet in Saotome *et al.* as suggested by Horikawa while retaining the transmission of erasing energy to the sheet as required by Saotome *et al.* even though the reference is from the "glove box" art.

For at least the reasons explained above, Applicant is not entitled to a favorable determination of patentability in view of the arguments submitted September 10, 2003.

### **Conclusion**

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Constantine Hannaher whose telephone number is (703) 308-4850. The examiner can normally be reached on Monday-Friday with flexible hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David P. Porta can be reached on (703) 308-4852. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

ch

  
Constantine Hannaher  
Primary Examiner